

# EXHIBIT E

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

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CLIFFORD COOK,

Plaintiff,

vs.

No. C-07-02569 CRB

CITY AND COUNTY OF SAN  
FRANCISCO, ANTONIO FLORES, DON  
SLOAN, MARSHA ASHE, and DOES  
1-50, inclusive,

Defendants.

DEPOSITION OF ELIZABETH AGUILAR-TARCHI

March 21, 2008

REPORTED BY: A. MAGGI SAUNDERS,

C.S.R. No. 2755

**DISK  
ENCLOSED**



A. Maggi Saunders & Associates  
Certified Shorthand Reporters

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License No. 2755

(415) 383-6281

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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4 CLIFFORD COOK, )  
5 Plaintiff, )  
6 vs. ) No. C-07-02569 CRB  
7 CITY AND COUNTY OF SAN )  
8 FRANCISCO, ANTONIO FLORES, DON )  
9 SLOAN, MARSHA ASHE, and DOES )  
10 1-50, inclusive, )  
11 Defendants. )  
12  
13  
14  
15  
16 DEPOSITION OF ELIZABETH AGUILAR-TARCHI  
17 March 21, 2008  
18  
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21  
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23  
24 REPORTED BY: A. MAGGI SAUNDERS,  
25 C.S.R. No. 2755  
Page 1

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| 1  | I N D E X                             |        |
| 2  |                                       |        |
| 3  |                                       | Page   |
| 4  | Examination by MR. SCOTT              | 5      |
| 5  |                                       |        |
| 6  | E X H I B I T S                       |        |
| 7  |                                       |        |
| 8  | FOR PLAINTIFF                         | Page   |
| 9  | 1 July 28, 2005, Two-page memo from   | 24     |
| 10 | E. Aguilar-Tarchi, RE: Discharge      |        |
| 11 | 27                                    |        |
| 12 | 2 Warrant Declination Memorandum, one | 36     |
| 13 | page                                  |        |
| 14 |                                       |        |
| 15 |                                       |        |
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| 25 |                                       |        |
|    |                                       | Page 2 |

1 BE IT REMEMBERED that, pursuant to Notice  
2 of Taking Deposition, and on Friday, the 21st day of  
3 March, 2008, commencing at the hour of 10:00 o'clock  
4 a.m. thereof, at the SCOTT LAW FIRM, 1375 Sutter  
5 Street, Suite 222, San Francisco, California 94109,  
6 (415) 561-9600, before me, A. MAGGI SAUNDERS, a  
7 Certified Shorthand Reporter in and for the State of  
8 California, there personally appeared  
9  
10 ELIZABETH AGUILAR-TARCHI,  
11  
12 called as a witness by the Plaintiff CLIFFORD COOK,  
13 who, being by me first duly sworn, was thereupon  
14 examined and interrogated as hereinafter set forth.  
15  
16 ---oOo---  
17  
18 SCOTT LAW FIRM, 1375 Sutter Street, Suite  
19 222, San Francisco, California 94109, (415) 561-9600,  
20 represented by JOHN HOUSTON SCOTT, ESQ., appeared as  
21 counsel on behalf of Plaintiff CLIFFORD COOK.  
22  
23 DENNIS J. HERRERA, CITY ATTORNEY, OFFICE OF  
24 THE CITY ATTORNEY, CITY AND COUNTY OF SAN FRANCISCO,  
25 1390 Market Street, Sixth Floor, San Francisco,  
Page 3

1 California 94102, (415) 554-3800, represented by  
2 MARGARET W. BAUMGARTNER, DEPUTY CITY ATTORNEY,  
3 appeared as counsel on behalf of Defendants .  
4  
5 ALSO PRESENT WAS CLIFFORD COOK, THE PLAINTIFF.  
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Page 4

1 ---oOo---  
2 ELIZABETH AGUILAR-TARCHI,  
3 called as a witness herein, being first duly sworn by  
4 the Certified Shorthand Reporter to tell the truth,  
5 the whole truth, and nothing but the truth, testified  
6 as follows:  
7 EXAMINATION BY MR. SCOTT:  
8 Q. Good morning.  
9 A. **Good morning.**  
10 Q. Do you pronounce it Aguilar-Tarchi, or  
11 Tarchi?  
12 A. **It's "Tarchi".**  
13 Q. Tarchi, okay.  
14 A. **But you can just say Tarchi, that's fine.**  
15 Q. Okay. Do you usually go by  
16 "Aguilar-Tarchi"?  
17 A. **Formally written; and the judges, usually**  
18 **just "Tarchi" is fine.**  
19 Q. Okay. Well, it's easier for me to say.  
20 Ms. Tarchi, my name is John Scott, and I'm  
21 an attorney and I represent Clifford Cook, who is  
22 present, in a lawsuit that he's brought against the  
23 City and County of San Francisco, and others, regarding  
24 an arrest that was made on him on July 27th of 2005, I  
25 believe, 2005.

Page 5

1 And we're here today to take your  
2 deposition, and thank you for being here.  
3 I guess, first of all, let me ask you,  
4 have you ever had your deposition taken before?  
5 A. **No.**  
6 Q. All right. Let me make just a few brief  
7 observations:  
8 Would it be fair to say that, as a  
9 licensed attorney and member of the DA's Office, you  
10 are familiar with the process of examining and  
11 cross-examining witnesses.  
12 A. **Yes.**  
13 Q. All right.  
14 Well, the oath that you took here is the  
15 same oath that would be taken in a court of law; and  
16 although this is a somewhat informal procedure, this  
17 is an official court proceeding.  
18 And I guess, the only thing to remind  
19 you of is that the rules of evidence that would apply  
20 in a court proceeding do not, for the most part,  
21 apply in a deposition, for example.  
22 I'm allowed to ask questions that would  
23 elicit hearsay information.  
24 And, so, for example, a question that asks  
25 for hearsay would be proper in a deposition, and it

Page 6

1 could be objected to at trial.  
2 Also, we don't have anybody ruling here on  
3 objections.  
4 And the attorney for the City --  
5 Oh, by the way, is Ms. Baumgartner  
6 representing you here today?  
7 A. **Yes.**  
8 Q. Okay. She may make objections from time  
9 to time, but we don't have anyone here to rule on the  
10 objections.  
11 And that means that, unless she instructs  
12 you not to answer, you should go ahead and answer the  
13 question, if you can. Do you understand that?  
14 A. **Yes.**  
15 Q. Great.  
16 Also, if you would like to take a break  
17 for any reason, please say so, and we can take a break.  
18 This is not an endurance contest, and I  
19 want you to be comfortable. And don't be afraid to  
20 just at any time say, "I'd like to take a break," and  
21 we can do that.  
22 A. **(Nodding head.)**  
23 Q. Let me start off by asking you, do you  
24 have any recollection of the day, Clifford Cook, when  
25 he was arrested, and having any information about that?

Page 7

1 A. **Yes.**  
2 Q. Okay. So you do have some independent  
3 recollection?  
4 A. **Yes.**  
5 Q. Okay. And what do you recall  
6 independently about that day?  
7 A. **I remembered being in an office with two**  
8 **Inspectors of the Domestic Violence Response Unit.**  
9 Q. Okay.  
10 A. **And a then-Lieutenant Sloan, I believe,**  
11 **had walked in and said, "There has been an arrest.**  
12 **There is nothing to discuss."**  
13 **And that was it. I do remember that.**  
14 Q. All right. And were those Inspectors  
15 Flores and Ciardella?  
16 A. **Yes.**  
17 Q. Okay. And what did you understand to be  
18 the purpose of that meeting?  
19 A. **The purpose of the --**  
20 **Well, it wasn't a "meeting". They had**  
21 **come down --**  
22 Q. Okay.  
23 A. **-- and they were informally asking some**  
24 **questions about a situation. It was not anything**  
25 **formal.**

Page 8

1 Q. Did they have a case file with them?  
 2 A. No, not to my recollection. Not a  
 3 formal -- I never reviewed any formal paperwork.  
 4 Q. Okay. And how long did that meeting last  
 5 with them?  
 6 A. It was rather brief; probably less than  
 7 ten minutes.  
 8 Q. Okay. And had they made an appointment  
 9 ahead of time to come there?  
 10 A. No.  
 11 Q. Okay. So these inspectors --  
 12 And would this be unusual, for  
 13 Inspectors to come to your office?  
 14 A. No.  
 15 Q. Okay. So, this would be a routine kind of  
 16 situation?  
 17 A. Yes.  
 18 Q. And would Inspectors sometimes come to  
 19 your office to ask you to review a case for particular  
 20 purposes?  
 21 A. Yes.  
 22 Q. And what would those purposes be?  
 23 A. Well, it varied. I was the Supervising  
 24 Attorney of the Unit; so, sometimes it was formal;  
 25 sometimes it was informal;

Page 9

1 Sometimes I'd walk in a hallway, and  
 2 they'd say, "I'm going to talk to you about a  
 3 situation, I'll drop in in a minute."  
 4 "Okay, great."  
 5 So, there were various ways for which  
 6 people would come to me, or Inspectors.  
 7 Q. And on some occasions, would it be to have  
 8 you review a case file to determine whether a case  
 9 could be charged?  
 10 A. Yes.  
 11 Q. And on other occasions, would it be to --  
 12 for the purpose of working-up a case for a warrant?  
 13 A. Yes.  
 14 Q. Okay. And what would other purposes be?  
 15 A. Informal: "I'm looking at a situation.  
 16 We have a victim saying 'X,' any views on how I might  
 17 work-it-up."  
 18 That kind of thing.  
 19 Q. Okay. And when you were meeting that  
 20 morning with Inspectors Flores and Ciardella, what did  
 21 they tell you about the Clifford Cook case?  
 22 A. I cannot independently recall the  
 23 specifics.  
 24 I remembered them saying it was a  
 25 sensitive situation, "because a member of the San

Page 10

1 Francisco Police Department was a suspect."  
 2 And I said, "Well, I appreciate your  
 3 telling me that," because that would be something I  
 4 would have to inform my front office.  
 5 That is what I do clearly remember.  
 6 I think I remembered asking the name -- no  
 7 offense to Inspector Cook -- I did not even -- The name  
 8 sounded familiar, but I'm better with faces.  
 9 So, I just said, "Okay. Fine."  
 10 Put that aside. And then it was  
 11 informal, about the fact pattern. That, I do not  
 12 specifically independently recall.  
 13 I do remember it was a domestic violence  
 14 dispute, or alleged incident.  
 15 Q. And --  
 16 A. That it wouldn't have been coming to me.  
 17 Q. And did you ask them if Inspector Cook had  
 18 been interviewed?  
 19 A. Excuse me. I'm sorry?  
 20 Q. Did you ask them if Inspector Cook had  
 21 been interviewed?  
 22 A. I do not recall asking that. I don't  
 23 remember.  
 24 Q. Do you remember if that issue came up?  
 25 A. I don't recall that.

Page 11

1 Q. Okay. And did they -- Did they tell you  
 2 that they wanted you to review the case for any  
 3 particular purpose?  
 4 A. No; because, again, it wasn't a rebooking.  
 5 I don't think we ever got that far  
 6 because, as I said, the meeting was brief.  
 7 But, obviously, their purpose must have  
 8 been to tell me, "We have a situation. What might be  
 9 needed by your office? What might you look at,"  
 10 based on my experience.  
 11 Q. So, based on your experience, was it your  
 12 understanding they were there to either find out if you  
 13 thought there was enough to charge the case, or whether  
 14 it should be worked-up for a warrant?  
 15 A. No. It was neither a warrant workup --  
 16 that's a very different precise -- because they would  
 17 come down with a packet --  
 18 Q. Okay.  
 19 A. -- and I would have a formal memo that I  
 20 would prepare to say, "Oh, it's a warrant review."  
 21 It was not that; I definitely I know it  
 22 wasn't that.  
 23 And it was not a rebooking, i.e., there  
 24 was no one under arrest, that would trigger me  
 25 filling out a particular form, to make a decision

Page 12

STATE OF CALIFORNIA ) ss.  
)

CERTIFICATE OF REPORTER

I, A. MAGGI SAUNDERS, a Certified Shorthand Reporter in and for the State of California, duly appointed and licensed to administer oaths and so forth, do hereby certify:

That the witness named in the foregoing deposition was by me duly sworn to tell the truth, the whole truth and nothing but the truth;

That the deposition was reported by me, a Certified Shorthand Reporter and disinterested person, and thereafter transcribed into typewriting under my direction;

That if the deposition has not been signed by the time of trial, a reasonable opportunity having been given the witness to do so, signature has been waived in accordance with stipulation between counsel.

IN WITNESS WHEREOF, I have hereunto set my hand and subscribed my signature this 31st day of March, 2008.

A. Maggi Saunders CSR

A. MAGGI SAUNDERS, C.S.R. No. 2755,  
Certified Shorthand Reporter,  
In and For the State of California

